



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,006	08/29/2003	Chad A. Stevens	200208267-1	9911
22879 7590 08/01/2007 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER CHAWAN, SHEELA C	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 08/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/652,006

Applicant(s)

STEVENS ET AL.

Examiner

Sheela C. Chawan

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-13,15-16,21-23,25,28,30,31-34, 40- 43 and 47 is/are rejected.
- 7) ☒ Claim(s) 2,6,4,17-20, 24, 26, 27, 29, 35- 38, 44, 45 and 46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 4/30/07 has been entered. Claims 1-47 are pending in the application.

In response to applicant's amendment to claims 16-17, the minor objection to claims 16-17 has been withdrawn.

In response to applicant's amendment to claims 28-29, the rejection under 112, second paragraph has been withdrawn.

The indicated allowability of claims 1-38 and 40-47 is withdrawn in view of the new ground of rejection. The rejection is as follow.

Claim Objections

2. Claim 2 is objected to because of the following informalities:

Claim 2, line 3, change " one of more" to -- one or more--.

Appropriate correction is required.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 2624

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3-5, 7-13, 15- 16, 21- 23, 25, 28, 30, 31-34, 40- 43 and 47 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 8-10, 13, 20, 23, 24, 27, 36, 41 and 36 of U.S. Patent No. 7221,800 B2. The conflicting claims are not identical, they are not patentably distinct from each other because the Patent claims 1 and 36 require additional steps or elements, not required by claims 1, 28, 40 and 47 of the instant application. However conflicting claims are not patentably distinct from each other because:

- The claims recite common subject matter;
- Whereby application claims 1, 28, 40 and 47, which recite the open ended transitional phrase " comprising ", do not preclude the additional steps recited by the Patent claims 1 and 36, and
- Whereby the steps or elements of claims 1, 28, 40 and 47 are fully anticipated by the Patent claims 1 and 36 and anticipation is " the ultimate or epitome of obviousness." (*In re Kalm*, 154 UAPQ 10 (CCPA 1967), also *In re Daily*, 178 USPQ 293 (CCPA 1973) and *In re Pearson*, 181 USPQ 641 (CCPA 1974)).

Furthermore, dependent claims dependent claims 3, 31 15 and 16 of the instant application correspond to claim 8 of the Patent case. Similarly dependent claims 4 and 32 of the instant application correspond to claim 9 of the Patent case. Similarly dependent claim 5 of the instant application corresponds to claim 9 of the Patent case. Similarly dependent claims 7 and 33 of the instant application correspond to claim 10 of the Patent case. Similarly dependent claims 8 and 34 of the instant application correspond to claim 27 of the Patent case. Similarly dependent claims 9 and 41 of the instant application correspond to claims 2, 3 and 4 of the Patent case. Similarly dependent claims 10 and 42 of the instant application correspond to claim 13 of the Patent case. Similarly dependent claim 11 of the instant application correspond to claim 2,3 and 4 of the Patent case. Similarly dependent claim 12 of the instant application corresponds to claims 2 and 3 of the Patent case. Similarly dependent claims 13 and 43 of the instant application correspond to claims 23 and 24 of the Patent case. Similarly dependent claims 21 and 30 of the instant application correspond to claim 41 of the Patent case. Similarly dependent claim 22 of the instant application corresponds to claim 41 of the Patent case. Similarly dependent claim 23 of the instant application corresponds to claim 20 of the Patent case. Similarly dependent claim 25 and 30 of the instant application correspond to claim 20 or 41 of the Patent case.

Allowable Subject Matter

4. Claims 2, 6, 4, 17, 18, 19, 20, 24, 26,27,29,35,36,37,38,44,45,46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Claim 39 is allowed.

Art Unit: 2624

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela C Chawan whose telephone number is. 571-272-7446. The examiner can normally be reached on Monday - Thursday 7.30 - 6.00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sheela Chawan
Patent Examiner
Group Art Unit 2624
July 21, 2007


SHEELA CHAWAN
PRIMARY EXAMINER